

By:



S B. No. 1432

A BILL TO BE ENTITLED

AN ACT

relating to the creation and powers of the Texas Water Resources Finance Authority; authorizing the issuance of revenue bonds by said Authority to finance the acquisition of political subdivision bonds from the Texas Water Development Board; containing other provisions relating thereto; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known and may be cited as the Texas Water Resources Finance Authority Act.

SECTION 2. (a) It is hereby declared:

(i) that it is the policy of the State to encourage and assist in the conservation and development of the water resources of the State for all useful and lawful purposes by the acquisition, improvement, extension, or construction of water resource conservation and development projects;

(ii) that it is the further policy of the State to encourage the optimum development of the feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the State, which waters are held in trust for

the use and benefit of the public, through assistance and participation in the acquisition and development of water storage facilities and systems or works necessary for filtration, treatment and transportation of water from storage to points of treatment, filtration and/or distribution;

(iii) that it is also the policy of the State to aid in the protection of the quality of the water resources of the State by encouraging and assisting in the financing of water quality enhancement projects; and

(iv) that existing mechanisms for implementing such policies of the State may be enhanced by financing as provided in this Act.

(b) It is further declared that in order to enhance the ability of the State to aid in the conservation and development of the water resources of the State and to protect the quality of such water resources, it is necessary to establish a water resources finance authority for the purpose of increasing the availability of financing for water resource conservation and development projects and water quality enhancement projects by purchasing political subdivision bonds. It is further declared that the foregoing is a public purpose and a use for which public money may be borrowed, expended, advanced, loaned, granted, or appropriated, and that such use serves a public purpose in improving or otherwise benefitting the people of this State;

and that the necessity of enacting the provisions of this Act is in the public interest and is hereby so declared as a matter of express legislative determination.

SECTION 3. In this Act the following words, as used in this Act, shall have the meanings set forth below, unless the context clearly requires otherwise:

(a) "Act" means the Texas Water Resources Finance Authority Act.

(b) "Authority" means the Texas Water Resources Finance Authority created by the Act.

(c) "Board" means the board of directors of the authority.

(d) "Bond" means any type of interest-bearing obligation, including, without limitation, any bond, note, bond anticipation note, or other evidence of indebtedness, issued pursuant to this Act.

(e) "Director" means a member of the board.

(f) "Political subdivision" means a county, city or other body politic or corporate of the State, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the State is a party.

(g) "Political subdivision bonds" means any bonds, notes, or other securities which were issued by and any debt or other contractual obligations which were incurred by a political subdivision for the purpose of financing projects

for water resource development and conservation or water quality enhancement and which were purchased by the Texas Water Development Board with moneys in the water development fund or with moneys in the water loan assistance fund.

(h) "State" means the State of Texas.

(i) "Water development fund" means the fund by that name created by Article III, Section 49c of the Texas Constitution.

(j) "Water Loan Assistance Fund" means the fund by that name created by Section 15.101, Texas Water Code.

Where the context otherwise requires, words used in this Act imparting the singular number shall include the plural number and vice versa.

SECTION 4. There is hereby created and established a public authority and body politic and corporate, to be known as the Texas Water Resources Finance Authority and the State shall act by and through the authority in carrying out all powers and duties conferred by this Act. The exercise by the authority of all powers and duties conferred by this Act shall constitute and be deemed and held to be an essential public purpose of the State in promoting the general welfare of the State and all of its citizens.

SECTION 5. The authority is governed by a board of seven directors composed of the State Treasurer and the six members of the Texas Water Development Board, all of whom shall serve as ex-officio members of the board.

SECTION 6. (a) The directors do not receive any compensation but each director is entitled to reimbursement for actual expenses incurred in performing duties of office to the extent authorized by the board.

(b) The board shall elect one of the directors as chairman of the board, who shall preside at meetings of the board and perform such other duties as are prescribed by the board and this Act. The board shall elect one of the directors as vice-chairman to perform the duties of the chairman when the chairman is not present or is incapable of performing duties.

(c) The board shall elect a secretary to be the official custodian of the minutes, books, records, and seal of the board and to perform other duties as prescribed by the board. The board shall elect a treasurer to perform duties prescribed by the board. The offices of secretary and treasurer may be held by one person, and the holder of each of these offices need not be a director. The board may appoint one or more persons, who may but need not be directors, to be assistant secretaries who may perform any duty of the secretary.

(d) A majority of the members of the board of directors constitutes a quorum. The board shall act and proceed by and through resolutions adopted by the board. The affirmative vote of a majority of the members present is necessary to adopt a resolution.

(e) The chairman, vice-chairman, secretary, and treasurer of the board shall be elected at the first meeting of the board. Thereafter, officers of the board shall be elected at the first meeting of the board on or following January 31 of each odd-numbered year, or at any time necessary to fill a vacancy.

(f) The board shall hold regular meetings at least once each fiscal year and at such other times as may be specified by resolution of the board and may hold special meetings when called by the chairman or three members of the board.

(g) A director or officer of the board is not liable personally for any bonds issued or contracts executed by the authority.

SECTION 7. The board shall contract with the Texas Water Development Board, and may contract with such consultants as deemed necessary by the board, to perform its functions. Without limiting the foregoing, in connection with the purchase of political subdivision bonds, the authority may contract for the Texas Water Development Board to perform the functions required in order to ensure that the political subdivisions pay the debt service on such political subdivision bonds and observe the conditions and requirements set forth therein.

SECTION 8. (a) The board may purchase, from time to time, political subdivision bonds then owned or thereafter to be acquired by the Texas Water Development Board. In the

event that the board agrees to purchase political subdivision bonds thereafter to be acquired by the Texas Water Development Board, the board may pay the purchase price for the political subdivision bonds in exchange for the agreement of the Texas Water Development Board to transfer such political subdivision bonds to the board when they are so acquired. All purchases of political subdivision bonds hereunder shall be at such prices and under such terms as the board may determine to be reasonable.

(b) The board may issue, from time to time, revenue bonds in the name of the authority to pay the costs of issuance of such bonds and to finance the acquisition of political subdivision bonds from the Texas Water Development Board. The board may provide for the payment of the principal of and premium, if any, and interest on the bonds by pledging all or any part of the revenues derived from political subdivision bonds acquired or to be acquired by the authority or any other source of funds lawfully available to the authority.

SECTION 9. (a) The authority's bonds are obligations solely of the authority and are payable solely from funds of the authority, and this Act and the authority's bonds are not and do not create or constitute a pledge, giving, or lending of the faith or credit or taxing power of the State.

(b) Each bond of the authority shall contain a statement to the effect that the State is not obligated to pay the principal thereof or any premium or interest thereon;

and that neither the faith or credit nor the taxing power of the State is pledged, given, or loaned to such payment.

(c) However, the State hereby pledges to and agrees with the owners of any bonds issued in accordance with this Act that the State will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the said owner thereof or in any way impair the rights and remedies of such owners until such bonds, together with any premium and the interest thereon, with interest on any unpaid premium or installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such owners, are fully met and discharged. The authority is authorized to include this pledge and agreement of the State in any agreement with the owners of such bonds.

SECTION 10. (a) The board may issue bonds in various series or issues.

(b) The bonds may mature serially or otherwise not more than 50 years from their date and shall bear interest at the rate or rates permitted by the constitution and laws of the State.

(c) The bonds and interest coupons, if any, are investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the board, or may contain a mandatory redemption provision.

(d) The bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details provided by the board in the order or resolution authorizing their issuance. The bonds shall be signed and executed as provided in that resolution or order.

(e) The bonds may be issued to bear interest at such rate or rates as may be determined in accordance with a resolution of the board and the provisions of Chapter 3, Acts of the 61st Legislature Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes).

SECTION 11. (a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of an interest and sinking fund, a reserve fund, and other funds and may make additional covenants with respect to the bonds and the pledged revenues.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

(d) The board may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

SECTION 12. (a) The bonds issued by the board must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, he shall approve them, and they shall be registered by the comptroller of public accounts.

(c) After the approval and registration of bonds, the bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.

SECTION 13. (a) The board may issue bonds to refund all or any part of its outstanding bonds issued under this Act, including matured but unpaid interest.

(b) The board may refund its bonds as provided by the general laws of the state for revenue bonds.

SECTION 14. The bonds are eligible to secure deposits of public funds of the State and cities, counties, school districts, and other political subdivisions of the State. The bonds are lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons, if any.

SECTION 15. The bonds are legal and authorized investments for:

- (1) banks;

- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, counties, school districts, and other political subdivisions of the State and other public funds of the State and its agencies, including the permanent school fund.

SECTION 16. As set forth in this Act the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this Act, and the bonds of the authority issued pursuant to this Act, and the interest and income therefrom, including any profit made on the sale thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or pledged to pay or secure the payment of such bonds shall at all times be free from taxation and assessments of every kind by this State and by all public agencies.

SECTION 17. GENERAL POWERS OF THE AUTHORITY. (a) The authority is hereby granted, has, and may exercise all powers necessary or appropriate to effectuate the purposes of this Act, including, without limitation, the following powers:

(1) to sue and be sued, and plead and be impleaded, in its own name;

(2) to adopt an official seal and alter it when deemed advisable;

(3) to adopt and enforce bylaws and rules for the conduct of its affairs not inconsistent with such bylaws and this Act;

(4) to request and accept any grants, allocations, subsidies, guaranties, aid, contributions, services, labor, materials, gifts, or donations;

(5) to procure and pay premiums on insurance of any type whatsoever, in amounts and from insurers as the board deems necessary or advisable;

(6) to adopt rules and perform all functions reasonably necessary for the board to administer its functions prescribed by this Act;

(7) to do anything authorized by this Act, through its directors or officers, or by contracts with the federal government, the State, any public board or authority, or any person, firm, corporation, or other entity; and

(8) to do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied by this Act.

SECTION 18. The property of the authority, its income, and operations are exempt from all taxes and assessments imposed by the State and all political subdivisions on property acquired or used by the authority under the

provisions of this Act. In the event that the Authority is dissolved all of its rights and properties shall vest in the State.

SECTION 19. (a) The authority shall operate on a fiscal year beginning September 1 and ending August 31. The authority shall have made an audit of its books and accounts for each fiscal year by the State auditor or by a certified public accountant. The cost of the audit is an expense of the authority. A copy of the audit shall be filed with the governor and the legislature on or before January 1 of each year, except if the audit is being made by the State auditor and is not available by January 1, it shall be filed as soon thereafter as it is available.

(b) All expenses incurred in carrying out the provisions of the Act shall be payable solely from revenues or funds provided or to be provided pursuant to the provisions of this Act, and nothing in this Act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State. The authority shall not accept or be entitled to receive any appropriated funds from the State.

SECTION 20. The writ of mandamus and all other legal and equitable remedies shall be available to any party at interest to require the authority and any other party to carry out its or their agreements and to perform its or their functions and duties under this Act, the Texas Constitution, or the authority's bond resolutions.

SECTION 21. It is the duty of the board to utilize all available sources of revenues, income, and receipts, in order to pay all expenses of operation and maintenance of the authority, to pay the principal of and premium, if any, and interest on its bonds, and to create and maintain any reserves or funds as provided in each resolution authorizing the issuance of its bonds. In any resolution authorizing the issuance of the authority's bonds the board may prescribe systems, methods, routines, and procedures under which the authority shall function, consistent with this Act.

SECTION 22. Each lien on or pledge of revenues, income, or other resources of the authority or on any funds of the authority, as authorized by this Act, shall be valid and binding from the time of payment for and delivery of the bonds authorized by the resolution of the board creating or confirming any such lien or pledge. All such liens and pledges shall be fully effective as to items then on hand or thereafter received, and said items shall be subject to such liens or pledges without any physical delivery thereof or further act. All such liens and pledges shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority or other party, irrespective of whether such parties have notice thereof. Neither any resolution authorizing the issuance of bonds of the authority nor any other instrument by which any such lien or pledge is created or confirmed need be filed or

recorded except in the records of the authority, and except that each bond resolution of the authority shall be submitted to the Attorney General of the State of Texas as required by Section 12 of this Act.

SECTION 23. In the event of a default in the payment of principal or interest on political subdivision bonds purchased by the authority or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County. The provisions of this section are cumulative of any other rights or remedies to which the board may be entitled.

SECTION 24. This Act shall be construed liberally to effectuate the legislative intent and the purposes of this Act, and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

SECTION 25. This Act shall be cumulative of all other laws, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions,

approvals, or limitations contained therein, except as herein specifically provided; and to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control; provided, however, that the board shall have the right to use the provisions of any other laws not in conflict with the provisions hereof to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

SECTION 26. In case any one or more of the sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause or word had not been included herein.

SECTION 27. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is

hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

## BILL ANALYSIS

### BACKGROUND INFORMATION

Currently, the Water Development Board is authorized to establish rules for the Department of Water Resources, authorize the issuance of water development bonds, approve water development financial assistance and funds for wastewater treatment facility construction.

### PROBLEMS THAT THE BILL ADDRESSES

The Water Development Board is authorized to buy water development bonds for political subdivisions, however, this process is exceedingly cumbersome.

### HOW THE BILL WILL SOLVE THE PROBLEM(S)

The bill would provide for the creation of the Texas Water Resources Finance Authority, a political subdivision within the Water Development Board, to issue revenue debt in the open market, the proceeds of which would be paid to the Board for the purchase of the Board's loan portfolio. The income flow of the portfolio plus insurance purchased from a private insurance company would be used to support and guarantee the revenue bonds. The Board would use a portion of the proceeds to defease all general obligation debt issued by the Board and currently outstanding.

### SECTION BY SECTION ANALYSIS

SECTION 1: Cites the Act as the Texas Water Resources Finance Authority Act.

SECTION 2: Declares that the policy of the state is to encourage and assist in the conservation and development of water resources of the state.

Further declares that in order to accomplish the stated goals, it is necessary to establish a water resources finance authority for the purpose of increasing the availability of financing for water resource conservation and development projects.

SECTION 3: Provides the definitions relevant to the act.

SECTION 4: Creates and empowers the Texas Water Resources Finance Authority to carry out all powers and duties conferred by the Act.

SECTION 5: Gives authority to a board of seven directors composed of the State Treasurer and six members of the Water Development Board.

SECTION 6: Authorizes members of the board to receive reimbursement for actual expenses but does not provide for compensation and provides guidelines for board meetings.

SECTION 7: Authorizes the board to contract with the Water Development Board and other consultants deemed necessary by the board to perform its functions.

- SECTION 8: Authorizes the board to purchase political subdivision bonds thereafter to be acquired by the Water Development Board as specified and revenue bonds to pay the costs of issuance of such bonds and to finance the acquisition of political subdivision bonds from the Water Development Board.
- SECTION 9: Specifies that the State of Texas is not obligated to pay the principal or any premium or interest on the authority's bonds. However, the state does agree with the owners of any bonds issued in accordance with the Act to not limit or alter the rights vested in the authority to fulfill the terms of any agreements.
- SECTION 10: Specifies how the board may issue bonds.
- SECTION 11: Authorizes the board to establish and maintain an interest and sinking fund, a reserve fund, and other funds necessary.
- SECTION 12: Requires the board to submit all bonds to the attorney general for examination. If approved by the attorney general, the bonds must be registered with the comptroller of public accounts.
- SECTION 13: Authorizes the board to issue bonds to refund all or any part of its outstanding bonds issued under the Act provided by the general laws of the state.
- SECTION 14: States that the bonds are eligible to secure deposits of public funds of the state and units of local government.
- SECTION 15: States which legal and authorized investments the bonds may be used.
- SECTION 16: States the authority will be performing an essential governmental function in the exercise of the powers conferred by the Act.
- SECTION 17: States the general powers of the authority.
- SECTION 18: Authorizes an exemption from all taxes and assessments for property of the authority imposed by the state and all political subdivisions.
- SECTION 19: States the fiscal year begins September 1 and ends August 31. Requires the authority to be audited each fiscal year by the state auditor or a certified public accountant. Specifies that all expenses incurred in carrying out the provisions of the Act are to be paid solely from revenues or funds provided pursuant to the provisions of the Act.
- SECTION 20: States all legal and equitable remedies are available to any party at interest.
- SECTION 21: Specifies that it is the duty of the board to utilize all available sources of revenues, income and receipts in order to pay the expenses of operation and maintenance of the authority.
- SECTION 22: States that each lien on or pledge of revenues, income, or other resources of the authority are valid and binding from the time of payment for and delivery of the bonds authorized by the Act.
- SECTION 23: Gives the procedures in the event of a default in the payment of principal or interest on political subdivision bonds purchased by the authority.

SECTION 24: States the Act is to be construed liberally to effectuate the legislative intent.

SECTION 25: States the Act is to be cumulative of all other laws but wholly sufficient authority within itself for the issuance of bonds and the performance of other acts and procedures authorized in the Act.

SECTION 26: Savings clause.

SECTION 27: Emergency clause.

Rulemaking Authority: Establishes the Texas Water Resources Finance Authority.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

May 7, 1985

Honorable Grant Jones, Chairman  
Committee on Finance  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 1432  
By: Jones

Sir:

In response to your request for a Fiscal Note on Senate Bill No. 1432 (relating to the creation and powers of the Texas Water Resources Finance Authority) this office has determined the following:

The bill prohibits the Authority from incurring any indebtedness or liability on behalf of or payable by the State, or from receiving any appropriated funds from the State.

The funds available to the Board could be as much as \$72 million to be used for loans to local political subdivisions for projects pursuant to Article III, Sections 49-c, 49-d, and 49-d-1 of the Texas Constitution.

  
Jim Oliver  
Director

Source: Department of Water Resources;  
LBB Staff: JO, JH, JG, PA

S. B. No. 1432

By

AN ACT relating to the creation and powers of the Texas Water Resources Finance Authority; authorizing the issuance of revenue bonds by said Authority to finance the acquisition of political subdivision bonds from the Texas Water Development Board; containing other provisions relating thereto; and declaring an emergency.

**Filed with the Secretary of the Senate**

Read, referred to Committee on

## NATURAL RESOURCES

Reported favorably.

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

Senate and Constitutional Rules to permit consideration suspended by

unanimous consent.

           yeas,            nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

Read second time and { ordered engrossed.  
passed to third reading.

**Caption ordered amended to conform to body of bill.**

Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays to place bill on third reading and final passage.

Read third time and passed by { a viva-voce vote.  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays.

**OTHER ACTION:**

**Secretary of the Senate**

**Engrossed**

**Sent to House**

## ENGROSSING CLERK

**Received from the Senate**

**— Read first time and referred to Committee on**

**— Reported favorably amended, sent to Printer at**

## Printed and Distributed

**Sent to Committee on Calendars**

**Read Second time (amended): passed to third reading (failed)**

by (Non-Record Vote) Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_ Present, not voting.

**— Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas \_\_\_\_\_ nays \_\_\_\_\_ present not voting.**

— Read third time (amended); finally passed (failed) by a  
(Non-Record Vote) Record Vote of \_\_\_\_\_ yeas \_\_\_\_\_ nays  
\_\_\_\_\_ present not voting.

**— Caption ordered amended to conform to body of bill.**

**Returned to Senate.**

**Chief Clerk of the House**